

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CYNTHIA ANNE DIVEGLIA,	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	NO. 1: CV-00-1342
v.	:	
	:	
NORTHWESTERN MUTUAL	:	
LIFE INSURANCE COMPANY,	:	
	:	
Defendant.	:	(Judge McClure)
	:	

DEFENDANT’S MOTION FOR LEAVE TO FILE A REPLY BRIEF

The Defendant, Northwestern Mutual Life Insurance Company (“Northwestern”), hereby moves this Court for leave to file a reply brief in support of motion in limine and states as follows:

1. This Court in its Order dated March 23, 2004 set a deadline for filing motions in limine on May 17, 2004.
2. The Defendant timely filed its motion in limine to exclude the testimony of Plaintiff’s expert Elliot Leitner, and any expert opinion testimony from Dr. Patrick Borgen.
3. On May 21, 2004, the Defendant conducted a deposition of Plaintiff’s expert, Dr. Patrick Borgen and Plaintiff conducted a video trial deposition of Dr. Borgen for use at trial.

4. Defendant did not receive a copy of Dr. Borgen's trial testimony until it received Plaintiff's Brief in Opposition to Defendant's Motion in Limine which was filed by Plaintiff on or about June 8, 2004.


5. Plaintiff's brief referred to Dr. Borgan's testimony in arguing for admissibility.

6. Because of the various issues raised in Plaintiff's Brief in Opposition and primarily because Defendant did not have access to a copy of the transcript of the trial testimony, Defendant is requesting leave to file a reply brief to address various issues including the requirements of Daubert.

7. Accordingly, Northwestern respectfully requests that the Court grant its Motion for Leave to File Reply Brief.

Respectfully submitted,

STEVENS & LEE

By: 

E. Thomas Henefer
Attorney I.D. 55773
Kirk L. Wolgemuth
Attorney I.D. 45792
111 North Sixth Street
P.O. Box 679
Reading, PA 19603

Counsel for Defendant Northwestern Mutual
Life Insurance Company